

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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WEST 20<sup>TH</sup> ENTERPRISES CORP. and SELIM  
ZHERKA,

**ANSWER**

Plaintiffs,

- against -

07 Civ. 8052  
(KMK)(LMS)

THE CITY OF NEW YORK,

Defendant.

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Defendant THE CITY OF NEW YORK, by its attorney, MICHAEL A. CARDOZO, Corporation Counsel of the City of New York, for its answer to the complaint, respectfully alleges, upon information and belief, as follows:

1. Denies the allegations set forth in paragraph 1 of the complaint, except admits that plaintiffs purport to proceed as set forth therein.
2. Denies the allegations set forth in paragraph 2 of the complaint, except admits that plaintiffs purport to invoke this Court's jurisdiction pursuant to the cited provisions of law.
3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraphs 3 and 4 of the complaint.
4. Denies the allegations set forth in paragraph 5 of the complaint, and aver that defendant the City of New York is a municipal corporation organized pursuant to the laws of the State of New York.
5. Denies the allegations set forth in paragraphs 6, 7, and 8 of the complaint.

6. Denies the allegations set forth in paragraph 9 of the complaint, and avers that at all times the City acted in conformity with all applicable laws and regulations with respect to nightclubs in New York County.

7. In response to the allegations repeated and realleged pursuant to paragraph 10 of the complaint, defendant repeats and realleges the responses set forth in the corresponding paragraphs of its answer as if fully set forth herein.

8. Denies the allegations set forth in paragraph 11 of the complaint.

9. In response to the allegations repeated and realleged pursuant to paragraph 12 of the complaint, defendant repeats and realleges the responses set forth in the corresponding paragraphs of its answer as if fully set forth herein.

10. Denies the allegations set forth in paragraph 13 of the complaint.

11. In response to the allegations repeated and realleged pursuant to paragraph 14 of the complaint, defendant repeats and realleges the responses set forth in the corresponding paragraphs of its answer as if fully set forth herein.

12. Denies the allegations set forth in paragraph 15 of the complaint.

#### **FIRST AFFIRMATIVE DEFENSE**

13. The City has not violated any rights, privileges, or immunities secured to plaintiffs by the Constitution or laws of the Untied States, nor has it violated any act of Congress providing for the protection of civil rights. Any actions complained of herein were in all respects legal, proper, and constitutional.

#### **SECOND AFFIRMATIVE DEFENSE**

14. Plaintiff Zherka asserts that he is a principal of plaintiff West 20<sup>th</sup> Enterprises Corp. He does not articulate any claims on his own behalf, nor does he articulate

how his interests are separate from the corporation's claims. Thus, he has failed to establish that he has standing herein.

**WHEREFORE**, the City respectfully requests judgment dismissing the complaint, and awarding costs and disbursements to the City, together with such other and further relief as to the Court may seem just.

Dated:           New York, NY  
                  October 11, 2007

MICHAEL A. CARDOZO  
Corporation Counsel of the City of New York  
Attorney for Defendant

By: \_\_\_\_\_

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